

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Cody Raymond Kern,

No. 24-cv-348 (KMM/TNL)

Plaintiff,

v.

ORDER

Shireen Gandhi,¹ in her capacity as the
Commissioner of the Minnesota
Department of Human Services, State of
Minnesota,

Defendants

Before the Court are now two motions to dismiss. Defendants’ original motion [ECF 7] was partially denied by the Court during oral argument, with the remainder of the motion taken under advisement [*see* ECF 17]. While that motion was pending in part, Plaintiff sought and received leave to file a First Amended Complaint [*see* ECF 47], and Defendant filed a subsequent motion to dismiss [ECF 50] directed to the new complaint.

The Court observes that Plaintiff’s two pleadings and Defendants’ two motions are somewhat co-extensive. The First Amended Complaint [EF 48] adds new allegations, but does not withdraw the claims that were the subject of Defendants’ original motion to

¹ Shireen Gandhi became the Temporary Commissioner for the Department of Human Services on February 3, 2025. Press Release, Office of Minnesota Governor, available at <https://mn.gov/governor/newsroom/press-releases/?id=1055-667752>. Under Rule 25, as the successor to former Defendant Jodi Harpstead, Ms. Gandhi is “automatically substituted as a party.” Fed. R. Civ. P. 25(d).

dismiss. And for the sake of maintaining a clear appellate record, Defendants’ second motion reasserts arguments for dismissal from the first motion, including those that were already denied by this Court in the first motion [*see* ECF 52 (Mem. in Supp. of Second Mot. to Dismiss) at 1, n.2].

“Some courts, as a matter of course, treat an amended complaint as mooted a pending motion to dismiss the original complaint. Some courts do not” and will instead choose to treat an already-pending motion to dismiss as being directed to a later-filed amended complaint. *See Cartier v. Wells Fargo Bank, N.A.*, 547 F. App’x 800, 803–04 (8th Cir. 2013) (collecting cases for either course of action) (internal citations omitted). Here, because Defendants have filed a largely superseding motion to dismiss, and in the interests of judicial efficiency, the Court denies the original motion to dismiss [ECF 7] as moot. Thereafter, all arguments from Defendants’ original motion that the Court had not yet ruled on, as well as all arguments for dismissal raised in the Defendants’ second motion to dismiss, will be addressed in a single Order. This Order will be issued by the Court promptly following the April 29, 2025 hearing [ECF 51] on Defendant’s second motion.

IT IS SO ORDERED.

Date: February 24, 2025

s/ Katherine Menendez
Katherine Menendez
United States District Judge